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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,109	03/31/2000	Peter J. Kight	3350-31G	4187

7590 06/03/2003

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EXAMINER

GARG, YOGESH C

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/542,109

Applicant(s)

KIGHT ET AL.

Examiner

Yogesh C Garg

Art Unit

3625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 101 rejection of claims 36, 38-40, and 42.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

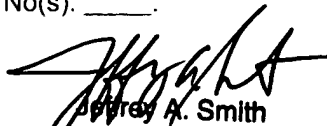
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 36,38-40,42-44,46-48,50-56 and 58-61.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Jeffrey A. Smith
Primary Examiner

Continuation of 5. does NOT place the application in condition for allowance because: . Other: With respect to the applicant's request for reconsideration, paper # 12, received on 4/30/2003 the applicant's arguments have been fully considered with regards to (i) denied claim for priority under 35 USC 120 to July 25, 1991 (ii) rejection of claims 36, 38-40, and 42 under 35 USC 101, and (111) rejection of claims 36, 38-39, 40,42-44,46-48, 50-56 and 58-61 under 35 USC 103 (a) and the examiner's comments are as follows:

A) Applicant's reply is not persuasive with regards to claim for priority under 35 USC 120 to July 25, 1991 and, therefore, the denial to Cpriority claim to July 25, 1991, as analyzed and detailed in Final Action, paper # 11, is maintained. Notes: (i) With regards to the applicant's comments with respect to FIG.3 of the '072 patent and the unnumbered box labeled "rejects"(see pages 4, 5 of the response), this unnumbered box labeled " rejects" should be linked to the box "consumer pay table -38 " because the validation process is done against the pay table. (ii) With regards to the applicant's comments with respect to excluding disclosure found at column 4, lines 37-41 of the '113 Patent (see pages 5 and 6 of the response) the inclusion of an incorporation-by-reference statement of the '113 patent does not cure the exclusion of the disclosure scope in the later application for '072 patent because the exclusion of the disclosure scope in the late application makes the breath of scope indefinite as whether the software of the present invention is being used as per '113 patent or any other software is applicable as is apparent from the disclosure of the application for Patent '072.

B) Applicant's reply has overcome the rejection of claims 36, 38-40 and 42 under 35 USC 101.

C) With regards to the applicant's arguments (see response, pages 10-14) regarding claims 36,38, 39 the examiner respectfully does not agree as Braum/Paschal teaches the limitations of claims 36, 38, and 39 as analyzed in the final Office action, paper # 12. Also with regards to the applicant's arguments (see response, pages 14-15), the examiner respectfully does not agree as Lawlor/Case teaches the limitations of claim 40 as analyzed in the final Office action, paper # 12.